

Texas v. Johnson (1989)

In 1984, the Republican National Convention was held in Dallas, Texas. Gregory Lee Johnson took part in a demonstration there. He and his group were protesting against nuclear weapons among other things. They marched through the streets shouting.

Johnson was carrying an American flag. When he reached Dallas City Hall, Johnson poured kerosene on the flag. Then he set it on fire. While the flag burned, people shouted, "America, the red, white, and blue, we spit on you." No one was hurt, but some people who were there said they were very upset.

Johnson was arrested. He was charged with violating a Texas law that said people couldn't vandalize a respected object. He was convicted, sentenced to one year in prison, and fined \$2,000.

Johnson appealed his case to the Texas Court of Criminal Appeals, which agreed with him. The court said that the First Amendment protection of free speech included "symbolic speech," which is an action that expresses an idea. It said that flag burning was a form of symbolic speech so Johnson could not be punished.

The State wanted to maintain order and to preserve the flag as a symbol of national unity. The State had argued its interests were more important than Johnson's symbolic speech rights. The court did not agree with the State's arguments.

The court said the government cannot "carve out a symbol of unity and prescribe a set of approved messages to be associated with that symbol . . ." The court also said that the flag burning did not cause or threaten to cause a breach of the peace.

The State of Texas asked the Supreme Court of the United States to hear the case. In 1989, the Court made a decision.

- **Demonstration-** Definition: *A public showing of a group's opinion, as by rally or march*
- **Protest-** Definition: *To oppose or object to*
- **Conviction-** Definition: *The judgment of a jury or judge that a person is guilty of a crime as charged*
- **Appeal-** Definition: *To request formally that a lower court decision be examined and reconsidered by a higher court*
- **Symbolic-** Definition: *Expressed by use of symbols (something that represents something else)*

QUESTIONS TO CONSIDER

1. What did Gregory Johnson do? What happened to him as a result?
2. What does the First Amendment say about freedom of speech? Why did Johnson say his First Amendment rights had been violated?
3. What argument could you make that flag burning is likely to cause violence and therefore should be against the law?
4. What argument could you make that flag burning is symbolic speech protected by the First Amendment?
5. The Texas Court of Appeals said the government cannot "carve out a symbol of unity and prescribe a set of approved messages to be associated with that symbol . . . " What does this mean? Do you agree that the government should not be able to do this? List your reasons.
6. How should the Supreme Court of the United States decide this case? Why?

Texas v Johnson Ruling

The majority of the Court, according to Justice William Brennan, agreed with Johnson and held that flag burning constitutes a form of "symbolic speech" that is protected by the First Amendment. The majority noted that freedom of speech protects actions that society may find very offensive, but society's outrage alone is not justification for suppressing free speech.

In particular, the majority noted that the Texas law discriminated upon viewpoint, i.e., although the law punished actions, such as flag burning, that might arouse anger in others, it specifically exempted from prosecution actions that were respectful of venerated objects, e.g., burning and burying a worn-out flag. The majority said that the government could not discriminate in this manner based solely upon viewpoint.

Supreme Court Decision Summary:

1. Who won the case?
2. What was the Supreme Court reasoning?
3. As a result of this case, how were student or school rights affected?

Ingraham v. Wright (1977)

Issue: School Discipline

Background

James Ingraham, a 14-year-old eighth-grader at Drew Junior High School in Miami, was taken to the principal's office after a teacher accused him of being rowdy in the school auditorium. The principal decided to give him five swats with a paddle, but James said that he hadn't done anything wrong and refused to be punished. He was subsequently held down while the principal gave him 20 swats. Ingraham was hit more than 20 times and required medical attention. While corporal punishment was permitted in the school district, James suffered bruises that kept him out of school for 10 days and he had to seek medical attention. James and his mother sued the principal and other school officials, claiming the paddling violated Eighth Amendment protections against "cruel and unusual punishments."

A complaint was filed (1971) on behalf of Ingraham and Roosevelt Andrews, another student at the school who had also been paddled. The complaint claimed that the use of corporal punishment violated both the Eighth Amendment's ban on "cruel and unusual punishments" and the due process clause of the Fourteenth Amendment, which requires prior notice and an opportunity to be heard. A district court dismissed the complaint, and the decision was upheld by the court of appeals. In November 1976 the case was argued before the U.S. Supreme Court. The following year the court ruled that the Eighth Amendment was not applicable to corporal punishment in public schools. The justices held that the amendment applied only to those convicted of a crime. In the majority opinion, Justice Lewis F. Powell, Jr., wrote that "the prisoner and the schoolchild stand in wholly different circumstances, separated by the harsh facts of criminal conviction and incarceration."

Summary of the case:

1. Who are the parties involved?
2. Summarize the facts of the case.
3. What constitutional right(s) is the student (Ingraham) claiming was violated?
4. What are the schools arguments?
5. What are the student's arguments?

6. Who should win the case?

Ruling

The Supreme Court ruled against James. The Court said that reasonable physical discipline at school doesn't violate the Constitution. The Eighth Amendment, the Justices said, was designed to protect convicted criminals from excessive punishment at the hands of the government—not schoolchildren who misbehave. The Court, however, did direct teachers and principals to be cautious and use restraint when deciding whether to administer corporal punishment to students. The Justices suggested that school officials consider the seriousness of a student's offense, the student's attitude and past behavior, the age and physical condition of the student, and the availability of a less severe but equally effective means of discipline.

The Court left the question of whether to allow corporal punishment up to states and local districts, which traditionally set most education policies. It is still used to a significant (though declining) degree in some public schools in Alabama, Arkansas, Georgia, Louisiana, Mississippi, Oklahoma, Tennessee and Texas. The most recent state to outlaw school corporal punishment was New Mexico in 2011.

Supreme Court Decision Summary:

4. Who won the case?
5. What was the Supreme Court reasoning?
6. As a result of this case, how were student or school rights affected?

Kent v. United States (1966)

Issue: Juveniles and Serious Crime

Background

Morris Kent, 16, who had been on probation since he was 14 for burglary and theft, was arrested and charged with three home burglaries, three robberies, and two counts of rape in Washington, D.C. Because of the seriousness of the charges and Morris's previous criminal history, the prosecutor moved to try Morris in adult court.

Morris's lawyer wanted the case to stay in juvenile court where the penalties were much less severe. He had planned to argue that Morris had a mental illness that should be taken into account when deciding where he would be tried. Without a hearing, the judge sided with the prosecutor and sent Morris to adult court, where he was found guilty and sentenced to 30 to 90 years in prison. Morris appealed, arguing that the case should have remained in juvenile court.

Summary Questions:

1. Who are the parties involved?
2. Summarize the facts of the case.
3. What constitutional right is the student(Morris) claiming was violated?
4. Who should win the case?

Ruling

The Supreme Court ruled against Morris, and said that a minor can be tried and punished as an adult. However, the Justices said that in deciding whether to remove a case from juvenile court, judges must weigh a variety of factors, including the seriousness of the crime; the juvenile's age; and the defendant's criminal background and mental state.

How the courts treat juveniles in the legal system varies from state to state. In many states, those under 18 can be tried as adults for crimes such as murder, sexual assault, or possession or sale of drugs, with punishments that range up to life in

prison without the possibility of parole. In 2005, the Supreme Court abolished the death penalty for juvenile offenders, saying it violated the Eighth Amendment's protection against "cruel and unusual punishments."

Supreme Court Decision Questions:

1. Who won the case?
2. What was the Supreme Court's reasoning?
3. As a result of this ruling, how have teen rights been affected?

Vernonia School District v. Acton (1995)

Issue: Student Athletes and Drug Testing

Background

James Acton, a 12-year-old seventh-grader at Washington Grade School in Vernonia, Oregon, wanted to try out for the football team. His school required all student athletes to take drug tests at the beginning of the season and on a random basis during the school year. James's parents refused to let him be tested because, they said, there was no evidence that he used drugs or alcohol. The school suspended James from sports for the season. He and his parents sued the school district, arguing that mandatory drug testing without suspicion of illegal activity constituted an unreasonable search under the Fourth Amendment.

An official investigation led to the discovery that high school athletes in the Vernonia School District participated in illicit drug use. School officials were concerned that drug use increases the risk of sports-related injury. Consequently, the Vernonia School District of Oregon adopted the Student Athlete Drug Policy which authorizes random urinalysis drug testing of its student athletes. James Acton, a student, was denied participation in his school's football program when he and his parents refused to consent to the testing.

Summary Questions:

1. Who are the parties involved?
2. Summarize the facts of the case.
3. What constitutional right is the student (Acton) claiming was violated?
4. Who should win the case?
5. Does random drug testing of high school athletes violate the reasonable search and seizure clause of the Fourth Amendment?

Ruling

The Supreme Court ruled in favor of the school district. Schools must balance students' right to privacy against the need to make school campuses safe and keep student athletes away from drugs, the Court said. The drug-testing policy, which required students to provide a urine sample, involved only a limited invasion of privacy, according to the Justices: "Students who voluntarily participate in school athletics have reason to expect intrusions upon normal rights and privileges, including privacy."

The Court noted that all students surrender some privacy rights while at school: They must follow school rules and submit to school discipline. But student athletes have even fewer privacy rights, the Justices said, and must follow rules that don't apply to other students. Joining a team usually requires getting a physical exam, obtaining insurance coverage, and maintaining a minimum grade point average. And athletes must be willing to shower and change in locker rooms, further reducing their privacy. "School sports are not for the bashful," the Court said.

Impact

More recently, the Court has ruled in favor of school policies requiring random drug testing for all extracurricular activities (*Board of Education v. Earls*, 2002).

Supreme Court Decision Questions:

1. Who won the case?
2. What was the Supreme Court's reasoning?
3. As a result of this ruling, how have student rights been affected?

West Side Community Schools v. Mergens (1990)

Issue: Student Clubs

Bottom Line: Public Schools That Allow Student-Interest Clubs Cannot Exclude Religious or Political Ones

Background

Bridget Mergens was a senior at Westside High School in Omaha, Nebraska. She asked her homeroom teacher, who was also the school's principal, for permission to start an after-school Christian club. Westside High already had about 30 clubs, including a chess club and a scuba-diving club. The principal denied Bridget's request, telling her that a religious club would be illegal in a public school. The year before, in 1984, Congress had addressed this issue in the Equal Access Act, which required public schools to allow religious and political clubs if they let students form other kinds of student-interest clubs. When Bridget challenged the principal's decision, her lawsuit became the Supreme Court's test case for deciding whether the Equal Access Act was constitutional under what is known as the Establishment Clause of the First Amendment: "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof." The school administration at Westside High School denied permission to a group of students to form a Christian club with the same privileges and meeting terms as other Westside after-school student clubs. In addition to citing the Establishment Clause, Westside refused the club's formation because it lacked a faculty sponsor. When the school board upheld the administration's denial, Mergens and several other students sued. The students alleged that Westside's refusal violated the Equal Access Act, which requires that schools in receipt of federal funds provide "equal access" to student groups seeking to express "religious, political, philosophical, or other content" messages. On appeal from an adverse District Court ruling, the Court of Appeals found in favor of the students. The Supreme Court granted Westside certiorari.

Summary Questions:

1. Who are the parties involved?
2. Summarize the facts of the case.
3. What constitutional right is the student (Mergens) claiming was violated?

4. Who should win the case?

Ruling

The Supreme Court ruled in favor of Bridget. Allowing students to meet on campus to discuss religion after school did not amount to state sponsorship of religion, the Court said: "We think that secondary-school students are mature enough and are likely to understand that a school does not endorse or support student speech that it merely permits."

If a public school allows only clubs tied to the school curriculum—a French club related to French classes, for instance—it can exclude clubs that don't connect to its educational mission. But once a school allows student-interest clubs—such as a scuba-diving club, environmental club, or jazz club—it cannot exclude religious clubs, political clubs, gay-lesbian clubs, or other groups.

If the club is religious in nature, however, the school must refrain from active involvement or sponsorship, so that it doesn't run afoul of the Establishment Clause, the Court said.

Question

Was Westside's prohibition against the formation of a Christian club consistent with the Establishment Clause, thereby rendering the Equal Access Act unconstitutional?

Supreme Court Decision Questions:

1. Who won the case?
2. What was the Supreme Court's reasoning?
3. As a result of this ruling, how have student rights been affected?

Grutter v. Bollinger (2003)

Issue: Affirmative Action in College

Bottom Line: Colleges Can Use Race as a Factor in Admissions

Background

In 1997, Barbara Grutter, a white Michigan resident, was denied admission to the University of Michigan Law School. Grutter, who had a 3.8 undergraduate grade point average and good standardized test scores, sued the university over the law school's affirmative action policy, which considered race as a factor in admissions. *Gratz v. Bollinger* involved a challenge to the University of Michigan's undergraduate affirmative action program. The university ranked each applicant on a 150-point scale, with 100 points generally guaranteeing admission. Membership in a historically discriminated-against racial group, or "attendance at a predominately minority or disadvantaged high school," resulted in an automatic bonus of 20 points on the scale. Michigan and many other universities use affirmative action to increase the number of minority students admitted. Grutter claimed that Michigan admitted less-qualified minority applicants in violation of federal civil rights laws and the Fourteenth Amendment, which guarantees citizens "equal protection" under the law. The Grutter case involved a lawsuit against the admission process at the University of Michigan's Law School. The mission of the law school's intensely competitive admission process was to achieve "a mix of students with varying backgrounds and experiences who will respect and learn from one another." While test scores and undergraduate performance were the most important criteria in selecting applicants for admission, they were not determinative. The school also examined a host of subjective factors in making its admissions decisions, including the race and ethnicity of the candidates. "Underrepresented" racial and ethnic minority applicants (i.e., African Americans, Latinos, and Native Americans) were looked upon favorably because they helped achieve the school's mission of student diversity. Evidence suggested that without the school's affirmative action policy, an underrepresented minority's average chance of admission would decrease from 35 percent to 10 percent.

Grutter alleged that the school made race a "predominate" factor in admissions decisions and that the school intentionally discriminated against whites, and that this violated the Fourteenth Amendment, which forbids states from denying "to any person within its jurisdiction the equal protection of the law." In its defense, the school maintained that it did not employ racial quotas or percentages in its admissions process but simply sought a "critical mass" of underrepresented

minorities in each entering class. The lower court found for Grutter, ruling that the law school's admissions policy was unconstitutional. After a federal appeals court reversed the decision, Grutter appealed to the Supreme Court, which reviewed the case in 2003.

Summary Questions:

1. Who are the parties involved?
2. Summarize the facts of the case.
3. What constitutional right is the student (Grutter) claiming was violated?
4. Who should win the case?

Ruling:

Applying the logic of *Regents of University of California v. Bakke* (1978), the Supreme Court, in a 5-4 decision written by Justice Sandra Day O'Connor, ruled that the University of Michigan's affirmative action program was constitutional. The Court argued that while the law school's race-conscious admissions scheme was presumptively unconstitutional under the Fourteenth Amendment's Equal Protection Clause because it intentionally discriminated on the basis of race, the school's interest in promoting "student diversity" was sufficiently "compelling," and its case-by-case admissions process was "narrowly tailored" enough, to withstand strict scrutiny. "Student diversity" was important enough to pass constitutional muster because it both counters racial stereotypes and ensures the presence of racial minorities in the nation's elite. The Court also argued that the law school's case-by-case, subjective admissions process was "narrowly tailored" enough to be constitutional because it did not employ a quota system and provided for individualized review of applicants. Instead, the school construed membership in a minority race as merely a "plus" factor among many weighed in the admissions decision.

The Supreme Court upheld the use of affirmative action in higher education. "Student-body diversity is a compelling state interest that can justify the use of race in university admissions," the Court said. But the Court emphasized that the University of Michigan's policy was acceptable because the school conducted a thorough review of each applicant's qualifications and did not use a racial quota

system—meaning it did not set aside a specific number of offers for minority applicants.

Affirmative action, which has its origins in a 1961 executive order issued by President John F. Kennedy, continues to be a contentious issue, with critics charging that it amounts to discrimination. Since 1996, voters in three states—California, Washington, and, most recently, Michigan—have approved laws banning affirmative action in public education, in state government hiring, and the awarding of state contracts.

Supreme Court Decision Questions:

1. Who won the case?
2. What was the Supreme Court's reasoning?
3. As a result of this ruling, how have student rights been affected?

DeShaney v. Winnebago County Social Services (1989)

Issue: Constitutional Rights at Home

Background

Petitioner Joshua DeShaney was born in 1979, and custody of him was awarded to his father in 1980. In 1982 authorities first learned petitioner might be a victim of child abuse when his second wife complained to police. The County Department of Social Services (DSS), respondents, interviewed the father, but he denied the accusations and DSS did not pursue it further. In 1983 petitioner was admitted to a local hospital with multiple bruises and abrasions. The physician suspected child abuse and notified DSS. DSS obtained an order placing Joshua in the temporary custody of the hospital. The county convened an ad hoc Child Protection Team, which decided there was insufficient evidence of child abuse to retain petitioner in the custody of the court. The Team recommended several measures to help protect petitioner. A month later emergency room personnel again called the DSS caseworker to report that petitioner had again been treated for suspicious injuries. The caseworker concluded there was no basis for action. The caseworker made monthly visits to the home. She observed a number of suspicious injuries on petitioner's head. She also recorded that the measures suggested were not being complied with. In November 1983 DSS was again notified that petitioner was treated for suspected child abuse by the hospital. On the caseworker's next two visits, she was told that petitioner was too ill to see her, but DSS still took no action. In March 1984, father beat petitioner so severely that he fell into a life-threatening coma. He suffered severe brain damage and was expected to spend the rest of his life confined to an institution for the profoundly retarded. Father was convicted of child abuse. Joshua's mother sued the Department of Social Services for returning him to his father. She argued that the department had a duty to protect her son under the Fourteenth Amendment, which forbids the state from depriving "any person of life, liberty, or property, without due process of law."

Summary Questions:

1. Who are the parties involved?
2. Summarize the facts of the case.
3. What constitutional right is the student (Grutter) claiming was violated?

4. Who should win the case?

Ruling

The Court ruled against Joshua and his mother. It said essentially that the Constitution does not protect children from their parents and that therefore the government was not at fault in Joshua's abuse.

The Supreme Court has consistently respected parents' rights to discipline their children. But even though the government isn't required under the Constitution to protect children, all states assume this responsibility through child protection laws. The Supreme Court has generally deferred to state and local governments to enforce these laws and to intervene in cases of mistreatment.

Supreme Court Decision Questions:

1. Who won the case?
2. What was the Supreme Court's reasoning?
3. As a result of this ruling, how have student rights been affected?

Miranda v Arizona

Decision Date: June 13, 1966

Background:

In *Miranda v. Arizona* (1966), the Supreme Court ruled that detained criminal suspects, prior to police questioning, must be informed of their constitutional right to an attorney and against self-incrimination. The case began with the 1963 arrest of Phoenix resident Ernesto Miranda, who was charged with rape, kidnapping, and robbery. Miranda was not informed of his rights prior to the police interrogation. During the two-hour interrogation, Miranda allegedly confessed to committing the crimes, which the police recorded. Miranda, who had not finished ninth grade and had a history of mental instability, had no counsel present. At trial, the prosecution's case consisted solely of his confession. Miranda was convicted of both rape and kidnapping and sentenced to 20 to 30 years in prison. He appealed to the Arizona Supreme Court, claiming that the police had unconstitutionally obtained his confession. The court disagreed, however, and upheld the conviction. Miranda appealed to the U.S. Supreme Court, which reviewed the case in 1966.

Summary Questions:

1. Who are the parties involved?
2. Summarize the facts of the case.
3. What constitutional right is the defendant (Miranda) claiming was violated?
4. Who should win the case?

Decision:

The Supreme Court ruled 5-4 in favor of Miranda. This decision gave rise to what has become known as the Miranda Warning. The Court maintained that the defendant's right against self-incrimination has long been part of Anglo-American law as a

means to equalize the vulnerability inherent in being detained. Such a position, unchecked, can often lead to government abuse. For example, the Court cited the continued high incidence of police violence designed to compel confessions from a suspect. This and other forms of intimidation, maintained the Court, deprive criminal suspects of their basic liberties and can lead to false confessions. The defendant's right to an attorney is an equally fundamental right, because the presence of an attorney in interrogations, according to Chief Justice Warren, enables "the defendant under otherwise compelling circumstances to tell his story without fear, effectively, and in a way that eliminates the evils in the interrogations process."

While jurisdictions have their own regulations as to the precise warning given to a person interrogated in police custody, the typical warning states: *"You have the right to remain silent. Anything you say can and will be used against you in a court of law. You have the right to an attorney. If you cannot afford an attorney, one will be provided for you. Do you understand the rights I have just read to you? With these rights in mind, do you wish to speak to me?"*

Supreme Court Decision Questions:

1. Who won the case?
2. What was the Supreme Court's reasoning?
3. As a result of this ruling, how have student rights been affected?

Roe v Wade (1973)

In June 1969, 21-year-old Norma L. McCorvey discovered she was pregnant with her third child. She returned to Dallas, Texas, where friends advised her to assert falsely that she had been raped in order to obtain a legal abortion (with the understanding that Texas law allowed abortion in cases of rape and incest). However, this scheme failed because there was no police report documenting the alleged rape. She attempted to obtain an illegal abortion, but found that the unauthorized facility had been closed down by the police. Eventually, she was referred to attorneys Linda Coffee and Sarah Weddington. (McCorvey would end up giving birth before the case was decided.)

In 1970, Coffee and Weddington filed suit in the United States District Court for the Northern District of Texas on behalf of McCorvey (under the alias Jane Roe). The defendant in the case was Dallas County District Attorney Henry Wade, who represented the State of Texas. McCorvey was no longer claiming her pregnancy was a result of rape, and later acknowledged that she had lied about having been raped. "Rape" is not mentioned in the judicial opinions in the case.

At the time Roe was decided, most states severely restricted or banned the practice of abortion. However, these restrictions were challenged amid the sexual revolution and feminist movements of the 1960s. Roe claimed that while her life was not endangered, she could not afford to travel out of state and had a right to terminate her pregnancy in a safe medical environment. The lawsuit was filed against Henry Wade, Dallas County District Attorney, in a Texas federal court. The Texas court ruled that the law violated the Constitution. Wade appealed to the U.S. Supreme Court, which reviewed the case throughout 1971 and 1972.

Roe claimed that because abortions lie within a pregnant woman's "zone of privacy," the abortion decision "and its effectuation" are fundamental rights that are protected by the Constitution from regulation by the states, so laws regulating abortion must be sufficiently "important."

The Court reviewed the history of abortion laws, from ancient Greece to contemporary America, and therein found three justifications for banning abortions: 'a Victorian social concern to discourage illicit sexual conduct'; protecting the health of women; and protecting prenatal life. The Court rejected the first two justifications as irrelevant given modern gender roles and medical technology. As for the third justification, the Court argued that prenatal life was not within the definition of "persons" as used and protected in the U.S. Constitution and that America's criminal and civil laws only sometimes regard fetuses as persons deserving protection. Culturally, while some groups regard fetuses as people deserving full rights, no consensus exists. The Court ruled that Texas was thus taking one "view" of many. Protecting all fetuses under this contentious "view" of prenatal life was not sufficiently important to justify the state's banning of almost all abortions.

Summary Questions:

1. Who are the parties involved?
2. Summarize the facts of the case.
3. What constitutional right is the defendant (Roe) claiming was violated?
4. Who should win the case?

Ruling

Roe v. Wade (1973) ruled unconstitutional a state law that banned abortions except to save the life of the mother. The Court ruled that the states were forbidden from outlawing or regulating any aspect of abortion performed during the first trimester of pregnancy, could only enact abortion regulations reasonably related to maternal health in the second and third trimesters, and could enact abortion laws protecting the life of the fetus only in the third trimester. Even then, an exception had to be made to protect the life of the mother. Controversial from the moment it was released, Roe v. Wade politically divided the nation more than any other recent case and continues to inspire heated debates, politics, and even violence today. Though by no means the Supreme Court's most important decision, Roe v. Wade remains its most recognized.

In a 7-2 decision written by Justice Harry Blackmun (who was chosen because of his prior experience as counsel to the Mayo Clinic), the Court ruled that the Texas statute violated Jane Roe's constitutional right to privacy. The Court argued that the Constitution's First, Fourth, Ninth, and Fourteenth Amendments protect an individual's "zone of privacy" against state laws and cited past cases ruling that marriage, contraception, and child rearing are activities covered in this "zone of privacy." The Court then argued that the "zone of privacy" was "broad enough to encompass a woman's decision whether or not to terminate her pregnancy." This decision involved myriad physical, psychological, and economic stresses a pregnant woman must face.

However, the Court ruled that narrower state laws regulating abortion might be sufficiently important to be constitutional.

Supreme Court Decision Questions:

1. Who won the case?

2. What was the Supreme Court's reasoning?
3. As a result of this ruling, how have women's rights been affected?

NY Times v Sullivan

Decision Date: March 9, 1964

Background:

In 1960, the New York Times ran a full-page advertisement paid for by civil right activists. The ad openly criticized the police department in the city of Montgomery, Alabama for its treatment of civil rights protestors. Most of the descriptions in the ad were accurate, but some of the statements were false. The police commissioner, L. B. Sullivan, took offense to the ad and sued the New York Times in an Alabama court. Sullivan argued that the ad had damaged his reputation, and he had been libeled. The Alabama court ruled in favor of Sullivan, finding that the newspaper ad falsely represented the police department and Sullivan. After losing an appeal in the Supreme Court of Alabama, the New York Times took its case to the United States Supreme Court arguing that the ad was not meant to hurt Sullivan's reputation and was protected under the First Amendment.

Summary Questions:

1. Who are the parties involved?
2. Summarize the facts of the case.
3. What constitutional right is the defendant (Sullivan) claiming was violated?
4. Who should win the case?

Ruling:

The United States Supreme Court unanimously ruled in favor of the newspaper. The Court said the right to publish all statements is protected under the First Amendment. The Court also said in order to prove libel, a public official must show that what was said against them was made with actual malice – "that is, with knowledge that it was false or with reckless disregard for the truth."

Supreme Court Decision Questions:

1. Who won the case?
2. What was the Supreme Court's reasoning?
3. As a result of this ruling, how have student rights been affected?

Masterpiece Cakeshop v Colorado Civil Rights Commission (2018)

Masterpiece Cakeshop, Ltd., is a Colorado bakery owned and operated by Jack Phillips, a baker and devout Christian. In 2012 he told a same-sex couple that he would not create a cake for their wedding celebration because of his religious opposition to same-sex marriages—marriages that Colorado did not then recognize—but that he would sell them other baked goods, e.g., birthday cakes. The couple filed a charge with the Colorado Civil Rights Commission (Commission) pursuant to the Colorado Anti-Discrimination Act (CADA), which prohibits, as relevant here, discrimination based on sexual orientation in a “place of business engaged in any sale¹s to the public and any place offering services . . . to the public.” Under CADA’s administrative review system, the Colorado Civil Rights Division first found probable cause for a violation and referred the case to the Commission. The Commission then referred the case for a formal hearing before a state Administrative Law Judge (ALJ), who ruled in the couple’s favor. In so doing, the ALJ rejected Phillips’ First Amendment claims: that requiring him to create a cake for a same-sex wedding would violate his right to free speech by compelling him to exercise his artistic talents to express a message with which he disagreed and would violate his right to the free exercise of religion.

Summary Questions:

1. Who are the parties involved?
2. Summarize the facts of the case.
3. What constitutional right is the defendant (Sullivan) claiming was violated?
4. Who should win the case?

The Ruling:

The Supreme Court, however, by and large avoided these issues. Instead of looking at the broader debate, the Court focused on the facts of how Masterpiece Cakeshop was treated by the Colorado government and particularly by the Colorado Civil Rights Commission. the Court noted that state governments’ interests “could have been weighed against Phillips’ sincere religious objections in a way consistent with the requisite religious neutrality that must be strictly observed.”

What went wrong here, then, is the process. It's not that Phillips should, in theory, be allowed to cite his religion to freely discriminate. It's that the way the Colorado Civil Rights Commission concluded that Phillips had illegally discriminated was very poorly handled.

A majority opinion by Justice Anthony Kennedy listed the reasons why this case turned out to be a **lemon**. First, is what the couple asked for—a cake for a private celebration—really “speech” or “free exercise of religion” at all? Second, the record was unclear whether Phillips refused only to bake a cake with a “wedding” message or refused to provide any cake at all for Craig and Mullins’s celebration. Third, the events occurred before the Court’s decision, in *Obergefell v. Hodges*, that same-sex couples have a right to marry. Thus, Phillips in part based his denial on the fact that, at the time, Colorado did not permit same-sex marriage—that “the potential customers ‘were doing something illegal.’” Fourth, as Justice Kennedy pointed out at oral argument, the record was muddled by anti-religious statements made by state officials who considered the case below. The Supreme Court ruled that there could be no federal precedent to discriminate based on religion or that a business was discriminating against LGBTQ persons, but rather in this particular case they ruled with Phillips because the case had been mishandled by both prosecutors and defendants.

Supreme Court Decision Questions:

1. Who won the case?
2. What was the Supreme Court’s reasoning?
3. As a result of this ruling, how have student rights been affected?

2